

### **SUMMARY**

In the Office Action dated August 7, 2008, claims 1-6, 9, and 13-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over *Farquhar* (USP 3,265,283) in view of *Oliff et al.* (USP 5,427,242). Upon entry of this Amendment, claims 1, 3, 5-6, 13, 15, 17, and 19 will have been amended, claims 60 and 61 will have been added, claims 7-8, 10-12, and 20-59 will have been canceled, and claims 1-6, 9, 13-19, and 60-61 will be pending in this application.

### **REMARKS**

#### **Interview Summary:**

Applicants' representative thanks the Examiner for the teleconference of August 29, 2008 during which the rejection dated August 7, 2008 was discussed. Clarification of the basis of the Examiner's rejection of the claims on the *Farquhar* reference was requested (reference characters were omitted from the rejection). The Examiner cited Fig. 2 and referenced the elements relied upon as a basis for rejection. The amendments made to the claims herein are based upon the discussions with the Examiner.

#### **Claim Rejections Under 35 U.S.C. § 103:**

Claims 1-6, 9, and 13-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over *Farquhar* (USP 3,265,283) in view of *Oliff et al.* (USP 5,427,242). Applicants traverse this rejection.

The rejection relies on *Farquhar* to disclose the majority of the claimed elements, but admits that *Farquhar* fails to disclose a divider pad and relies upon *Oliff* to disclose such divider pad. However, since neither *Farquhar*, *Oliff*, nor any combination thereof teach or suggest the claims as amended, the rejections should be withdrawn upon entry of the present Amendment. As amended, claim 1 provides:

A paperboard carton for articles arranged in an end-on-end relationship, the carton comprising:

six sides, the six sides including a first side disposed between a second side and a third side, the first side being perpendicular a fourth side, the second side, and the third side, the second side and the third side being parallel,

a two-piece dispenser that includes a first portion and a second portion; the dispenser defined at least partially by a first tear line, a second tear line, and a third tear line; the first portion is removable from the carton along the first tear line to create a first opening in the first side for article removal, the first portion is detachable along the first tear line, the first tear line detaching the first portion from both the second portion and the carton, the second portion defined at least partially along its perimeter by the first tear line, the second tear line, and the third tear line,

after the first portion is detached from the second portion and from the carton, the second portion forming a hinged flap about the second tear line and the third tear line, the second tear line having a first end proximate the second portion and a second end distal the second portion, the second end of the second tear line intersected by a first intersection line, the first intersection line being non-parallel the second tear line, the first intersection line preventing the second tear line from extending beyond its intended length, the third tear line having a first end proximate the second portion and second end distal the second portion, the second end of the third tear line intersected by a second intersection line, the second intersection line being non-parallel the third tear line, the second intersection line preventing the third tear line from extending beyond its intended length,

wherein the second opening is adjacent the first opening and when the first portion is removed from the second portion, the hinged flap, when engaged, enlarges the opening to create an enlarged opening comprising the first opening with the second opening, the enlarged opening enabling easier article removal from the carton than the first opening alone.

Claim 13 has been similarly amended. Thus, claims 1 and 13 provide a first portion removable from a second portion, with the second portion being hinged about tear lines once the first portion is removed therefrom, and with the first portion creating a first opening, the second portion creating a second opening, and the first opening and the second opening combining to create an enlarged opening that enables easier container removal from the carton than the first opening alone. *Farquhar* provides a single dispensing flap 22 that can

be hinged to form a single opening in a side of a carton 10. The dispensing flap 22 of *Farquhar* fails to provide (1) a first section removable from a second section--dispensing flap 22 of *Farquhar* is a single flap without two sections separable from one another, (2) the second section being defined along its perimeter by a first tear line with the first section detachable from a second section along the first tear line--dispensing flap 22 of *Farquhar* only provides a single flap without a tear line defining two portions with the tear line defining a perimeter of the second portion, (3) a first opening created by removal of the first portion and a second opening created by hinging the second portion--dispensing flap 22 of *Farquhar* creates a single opening created by hinging the single flap 22 without providing a first opening and second opening that combine to form a combined opening that enables easier removal of articles from the carton than the first opening alone. *Oloff* fails to make up for the inadequacies of *Farquhar* as *Oloff* fails to provide the elements missing from *Farquhar* and fails to provide a teaching or suggestion to modify *Farquhar* to reach the claims as amended. *Oloff* merely shows a single dispensing flap 41 that can be hinged from the package to create a single opening in the package. *Oloff* entirely fails, at least, to disclose (1) a first section removable from a second section, (2) the second section being defined along its perimeter by a first tear line with the first section detachable from a second section along the first tear line, (3) a first opening created by removal of the first portion and a second opening created by hinging the second portion. Accordingly, rejections based on *Farquhar* and *Oloff*, or any combination thereof, should be withdrawn.

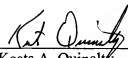
The dependent claims are allowable over *Farquhar* and *Oloff* on their own merits and, as inheriting the allowable characteristics of independent claims 1 and 13 from which they depend.

Claims 1-6, 9, 13-19, and 60-61 are thus allowable and Applicants request an indication of such in the application.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0528.

Respectfully submitted,

11/6/08  
Date

  
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